

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1332

GEORGIA ARNETTE GREEN,

Plaintiff - Appellant,

versus

C. BRANSON VICKERY, III, State Elect District
Attorney; DAWN STROUD, Lenoir County Clerk; W.
E. SMITH, Sheriff; ALL JUDGES FOR LENOIR
COUNTY,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Malcolm J. Howard,
District Judge. (CA-03-122-4-H)

Submitted: August 11, 2004

Decided: August 23, 2004

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Georgia Arnette Green, Appellant Pro Se. Thomas Giles Meacham,
Jr., NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina;
Mark Allen Davis, WOMBLE, CARLYLE, SANDRIDGE & RICE, Raleigh, North
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Georgia Arnette Green appeals from the district court's order dismissing her action in which she sought to remove her criminal prosecution from state court to the federal district court pursuant to 28 U.S.C. § 1443 (2000). While the district court properly concluded that it lacked jurisdiction over the case, see City of Greenwood, MS v. Peacock, 384 U.S. 808, 827-28 (1966), the proper disposition upon a determination of the lack of subject matter jurisdiction is to remand the case to the state court, rather than dismiss the action. See 28 U.S.C. §§ 1446(c)(3), (4), 1447(c) (2000); see also Roche v. Lincoln Prop. Co., 373 F.3d 610, 612 (4th Cir. 2004) (determining that district court lacked jurisdiction, vacating district court's order, and directing action remanded to state court); Virginia v. Wallace, 357 F.2d 105, 106 (4th Cir. 1966) (affirming district court order remanding criminal prosecution to state court).

Accordingly, we vacate the district court's dismissal order and remand this case to the district court with instructions to remand the case to the state court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED